



INTERIOR BOARD OF INDIAN APPEALS

Stillaquamish Tribe v. Portland Area Director, Bureau of Indian Affairs

18 IBIA 89 (12/20/1989)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

STILLAGUAMISH TRIBE

v.

PORTLAND AREA DIRECTOR, BUREAU OF INDIAN AFFAIRS

IBIA 89-77-A

Decided December 20, 1989

Appeal from a decision denying a fiscal year 1989 Core Management grant application.

Affirmed.

1. Board of Indian Appeals: Jurisdiction--Indians: Financial Matters:
Financial Assistance

Decisions concerning whether a tribe's application for a Core Management grant should be funded are committed to the discretion of the Bureau of Indian Affairs. In reviewing such decisions, it is not the function of the Board of Indian Appeals to substitute its judgment for that of the Bureau. Rather, it is the Board's responsibility to ensure that proper consideration was given to all legal prerequisites to the exercise of discretion.

OPINION BY ADMINISTRATIVE JUDGE VOGT

Appellant Stillaguamish Tribe seeks review of a May 1, 1989, decision of the Portland Area Director, Bureau of Indian Affairs (Area Director; BIA) denying its application for funding under the Core Management grant program. For the reasons discussed below, the Board affirms that decision.

Background

Appellant's application for a fiscal year 1989 Core Management grant from the Portland Area Office was one of 25 applications the Area Office received. These applications requested grants totalling \$785,689. The Area Office received funding in the amount of \$385,000 for fiscal year 1989 Core Management grants. After reviewing and ranking the applications based upon the scores given by a panel of reviewers for each of five criteria, the Area Office awarded grants to the 13 highest ranking applicants.

Appellant's score of 58.4 placed it 21st on the list. By letter of May 1, 1989, the Area Director informed appellant that its application did

not receive a high enough score to be funded. Appellant filed a notice of appeal from this decision with the Area Director, who received it on May 26, 1989. The Area Director assembled an appeal package, which was forwarded to the Board by memorandum of July 10, 1989. The Board received the appeal on July 21, 1989. ^{1/} Although the parties were given an opportunity to file briefs or statements with the Board, none were filed.

Discussion and Conclusions

BIA makes Core Management grants to small tribes pursuant to 25 CFR Part 278, Subparts A and C. These grants are intended "[t]o supplement the resources of small tribes in order to permit them to address basic or core tribal management needs such as an administrator, bookkeeper and clerical support." 25 CFR 278.21(a).

The Board noted in Lower Elwha Tribe v. Portland Area Director, 18 IBIA 50, 52 (1989), that the amount of money available for the Core Management program is limited by the amount Congress appropriates for the program. The Board stated:

Because the funds available for the program are less than the total amount requested by the tribes eligible for the program, some form of competitive allocation of the available funds is necessitated. The system established by BIA, in which each application is reviewed and ranked and funds are awarded based upon positions within that ranking, is a reasonable and objective method of allocating those funds.

See also Caddo Indian Tribe of Oklahoma v. Acting Anadarko Area Director, 18 IBIA 63 (1989).

[1] In Lower Elwha Tribe, the Board also discussed its role in reviewing BIA decisions concerning whether a particular Core Management grant application should be funded. These decisions, the Board held, are committed to the discretion of BIA. "In reviewing such decisions it is not the Board's function to substitute its judgment for that of BIA. Rather, it is the Board's responsibility to ensure that proper consideration was given to all legal prerequisites to the exercise of discretion." 18 IBIA at 51.

In this appeal, appellant does not allege that BIA committed any specific errors in reviewing its application. Instead, it emphasizes its need

^{1/} New appeals regulations for BIA and the Board took effect on Mar. 13, 1989. See 54 FR 6478 and 6483 (Feb. 10, 1989). Although the proper appeal procedures were not followed here, the Board accepted the appeal because the Area Director's decision letter did not clearly advise appellant of the proper procedures. Under 25 CFR 2.7(b) and (c), the time for filing a notice of appeal does not begin to run until written notice of the proper appeal procedure has been given to parties adversely affected by the decision.

for funds. Upon review of the administrative record in this appeal, the Board concludes that appellant has not shown that the Area Director's decision was in error.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Portland Area Director's May 1, 1989, decision is affirmed.

//original signed

Anita Vogt
Administrative Judge

I concur:

//original signed

Kathryn A. Lynn
Chief Administrative Judge